

Compliance Overview

New York Employee Leave Requirements for Pregnancy, Childbirth and New Child Bonding

Most workplaces will at some point include employees who are new or expecting parents, and employers will have to address leave-of-absence requirements for pregnancy, childbirth and/or bonding with a new child. In New York state, in addition to the federal Family and Medical Leave Act (FMLA), employers must comply with state laws mandating prenatal leave, paid sick leave and bonding leave. Some requirements apply only to pregnant employees, and others apply to parents generally. Leave compensation, duration and job protection requirements also vary by law.

The chart below provides information about laws addressing these leave mandates in New York—specifically, the [FMLA](#), the New York [paid prenatal leave](#) requirement, the [New York Disability Benefits Law](#) (which provides a cash benefit but not job-protected leave), the [New York Paid Family Leave \(PFL\) Law](#) and the [New York Paid Sick Leave \(PSL\) Law](#).

Note that counties and municipalities may have their own leave ordinances (such as [New York City's](#)), which are not addressed in this Compliance Overview. Also not included is the [New York Human Rights Law](#), which can require [leave as a reasonable accommodation](#) for pregnancy-related medical conditions.

	FMLA	NY Paid Prenatal Leave	NY Disability Insurance	NY PFL	NY PSL
Covered employers and employees:	Employers: - Private-sector employers with 50 or more employees; - Public agencies (federal, state and local) of any size; and	Employers: All private-sector employers. Employees: All private-sector workers in New York state who are directly receiving prenatal health care services. The leave may not be used by spouses, partners or other	Employers: An employer of at least one person on each of 30 days in any calendar year becomes a “covered” employer under the law four weeks after the 30th day of such employment, with exceptions for certain nonprofit	Employers: Private-sector employers with one or more employees in New York on at least 30 days in a calendar year. PFL coverage is typically added to the employer’s disability insurance policy.	Employers: All private-sector employers. Employers with at least five employees or more than \$1 million in annual net income must provide sick leave as paid. Employees: All private-

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	- Local educational agencies of any size. Employees: All who: - Have worked for their employer for at least 12 months; - Have at least 1,250 hours of service with the employer during the 12 months before their FMLA leave starts; and - Work at a location within 75 miles of which the employer has at least 50 employees (special rules apply for remote employees).	support persons to attend prenatal appointments with a pregnant person.	religious, charitable and educational institutions. Employees: Employees must be under the care of a physician, chiropractor, podiatrist, psychologist, dentist or certified nurse-midwife to qualify for disability benefits.	Employees: With limited exceptions, employees who work at least 20 hours per week for a covered employer for at least 26 consecutive weeks. A part-time employee (less than 20 hours per week) is eligible for PFL after they have worked for a covered employer for 175 days. The law also covers personal or domestic employees in a private home who work a minimum of 20 hours per week, 30 days per year for their employer.	sector employees in New York.
Leave amount:	12 weeks per year.	20 hours per year.	26 weeks per year: Four weeks before the employee's due date	12 weeks of leave per year.	Employees accrue leave at the rate of one hour for every 30 hours

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			and six weeks after giving birth (eight weeks for cesarian section deliveries). Pregnant employees may be entitled to further disability benefits, up to the maximum of 26 weeks, with documentation from a medical care provider. Employees may not collect disability benefits and PFL benefits at the same time. An employee's total combined disability leave and PFL in any 52-week period may not exceed 26 weeks.	Spouses who work for the same employer may be prohibited by that employer from taking PFL at the same time for the same reason. PFL runs at the same time as FMLA leave when the reason for leave qualifies for both.	worked, up to an annual limit. Accrual and use limits vary by employer size and income, as follows: • Employers with fewer than five employees and an annual net income of \$1 million or less: 40 unpaid hours per year; • Employers with fewer than five employees and an annual net income over \$1 million: 40 paid hours per year; • Employers with 5-99 employees: 40 paid hours per year; and • Employers with 100 or more employees: 56 paid hours per year.

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Permitted reasons for leave (related to pregnancy, childbirth and child bonding):	(Leave applies before childbirth or child placement, for childbirth or placement, and after childbirth or placement.) Before childbirth or placement: - Prenatal leave: Allowed if the employee has a serious health condition keeping them from working, such as severe morning sickness, complications requiring bed rest, or prenatal care. - Leave for a spouse's, parent's or child's serious health condition causing incapacity due to pregnancy.	(Leave applies only before childbirth.) For an employee's health care services during their pregnancy or related to the pregnancy, including physical examinations, medical procedures, monitoring, testing and discussions with a health care provider related to the pregnancy. The leave covers fertility treatment or care appointments, including in vitro fertilization and end-of-pregnancy care appointments. It does not cover postnatal or postpartum appointments.	(Benefit applies before childbirth, for childbirth and after childbirth.) For the pregnant employee's inability to work due to pregnancy or childbirth, as supported by a medical report completed by a doctor or certified nurse-midwife. Physical and mental health conditions due to or related to pregnancy or postpartum recovery may also qualify.	(Leave applies after childbirth or child placement.) For the employee to bond with their child during the first 12 months after the child's birth, or after the placement of the child for adoption or foster care with the employee. Employees may also take PFL to care for a child with a serious health condition.	(Leave applies before childbirth, for childbirth and after childbirth.) PSL may be used for the following purposes: - For the employee's or their family member's mental or physical illness, injury, or health condition, regardless of whether it has been diagnosed or requires medical care at the time of the request for leave; and - For the employee's or their family member's diagnosis, care, or treatment of a mental or physical illness, injury or health

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	Before adoption or foster care placement, when absence from work is required for the placement to proceed. This could include, for example, attending counseling sessions, appearing in court, consulting with the attorney or doctor representing the birth parent, submitting to a physical examination, or traveling to another country to complete an adoption. Childbirth: Both parents may take leave for the birth of their child. Adoption or foster care placement: Both parents may take leave when a				condition; or need for medical diagnosis or preventive care. Employees may use PSL for routine appointments.

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	child is first placed with them for adoption or foster care. After childbirth or placement of a child: • Child bonding: Both parents may take leave to be with a healthy newborn child during the 12-month period beginning on the date of birth. Both parents may take leave to be with a newly placed child during the 12-month period beginning with a child's adoption or foster care placement. Spouses who work for the same employer are limited to a combined total of 12 workweeks of				

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	bonding leave in a 12-month period. Caring for a child with a serious health condition: Both parents may take leave.				
Job protection:	Leave is job-protected.	Leave is job-protected.	Does not provide job-protected leave. This is a cash benefit program only.	Leave is job-protected.	Leave is job-protected.
Compensation:	The FMLA does not require compensation during leave. Employees may choose to substitute accrued paid leave for FMLA leave, or employers may require the substitution. In these cases, the accrued paid leave will run concurrently with the unpaid FMLA leave.	Employees on leave must be paid their regular rate of pay or the applicable minimum wage under state law, whichever is greater.	Claimants receive 50% of their average weekly wage while on leave, up to a maximum of \$170 per week. Workers on PFL may not receive NY disability insurance benefits at the same time.	Employees on PFL receive 67% of their average weekly wage, capped at 67% of the statewide average weekly wage. If the employer allows it, employees may take PSL at the same time as PFL to receive their full salary for all or part of the leave. However, an employee may not receive more than their	Employees on leave must be paid at their regular rate of pay or the applicable minimum wage under state law, whichever is greater.

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				full wages while receiving PFL benefits. PFL may not be taken at the same time as NY disability insurance benefits.	

More Information

Contact Employco USA, Inc. for more information about employee leave laws in New York.